

## § 9901.606

all competing employees holding official positions of record in the defined competitive area.

(c) *Review of competitive area determinations.* The Secretary will make all competitive area definitions available for review.

(d) *Change of competitive area.* Competitive areas will be established for a minimum of 90 days before the effective date of a reduction in force. In implementing issuances, the Secretary will establish approval procedure requirements for any competitive area identified less than 90 days before the effective date of a reduction in force.

(e) *Limitations.* The Secretary will establish a competitive area only on the basis of legitimate organizational reasons, and competitive areas will not be used for the purpose of targeting an individual employee for reduction in forces on the basis of nonmerit factors.

(f) *Bar on collective bargaining.* Pursuant to 5 U.S.C. 9902(f)(4) and (m)(7), the establishment of a competitive area under the authority of this subpart is not subject to collective bargaining.

### § 9901.606 Competitive group.

(a) The Secretary will establish separate competitive groups for employees—

(1) In the excepted and competitive service;

(2) Under different excepted service appointment authorities; and

(3) With different work schedules (e.g., full-time, part-time, seasonal, intermittent).

(b) The Secretary may further define competitive groups on the basis of one or more of the following considerations:

(1) Career group;

(2) Pay schedule;

(3) Occupational series or specialty;

(4) Pay band; or

(5) Trainee status.

(c) An employee is placed into a competitive group based on the employee's official position of record. An employee's official position description may be supplemented with other applicable records that document the employee's actual duties and responsibilities.

(d) The competitive group includes the official positions of employees on a detail or other nonpermanent assign-

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ment to a different position from the competitive group.

(e) Pursuant to 5 U.S.C. 9902(f)(4) and (m)(7), the establishment of a competitive group under the authority of this subpart is not subject to collective bargaining.

### § 9901.607 Retention standing.

(a) *Retention list.* Within each competitive group, the Secretary will establish a retention list of competing employees in descending order based on the following:

(1) Tenure, with career employees listed first, followed by employees serving an initial probationary period, and then followed by employees on term appointments and other employees as identified in implementing issuances;

(2) Veterans' preference, in accordance with the preference requirements in 5 CFR 351.501(c) and (d), including the preference restrictions found in 5 U.S.C. 3501(a);

(3) The ratings of record, as determined in accordance with implementing issuances;

(4) Creditable civilian and/or uniformed service in accordance with 5 U.S.C. 3502(a)(A) and (B) and 5 CFR 351.503, but without regard to provisions covering additional service credit for performance in 5 CFR 351.503(c)(3) and (e); and

(5) The Secretary may establish tie-breaking procedures when two or more employees have the same retention standing.

(b) *Active uniformed service member not on list.* The retention list does not include the name of an employee who, on the effective date of the reduction in force, is on active duty in the uniformed services with a restoration right under 5 CFR part 353.

(c) *Access to retention list.* An employee who received a specific reduction in force notice and the employee's representative have access to the applicable retention list in accordance with 5 CFR 351.505. Where 5 CFR 351.505 uses the terms "competitive level" or "retention register," the term *retention list* (as defined in this subpart) is substituted.